

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

SENSIENT COLORS INC.,

Plaintiff,

vs.

ABBY F. KOHNSTAMM; PETER L.
KOHNSTAMM; SARAH F.
KOHNSTAMM; ELIZABETH K.
OGDEN; RICHARD L. OGDEN;
THOMAS H. OGDEN; JOHN DOE
INDIVIDUALS 1-20 (fictitious
names); and ABC COMPANIES 1-20
(fictitious names),

Defendants.

Case No. 07 CIV 7846 (LAP)

CIVIL ACTION

**DECLARATION OF
MICHAEL A. LAMPERT**

(Filed Electronically)

MICHAEL A. LAMPERT hereby declares pursuant to 28 U.S.C. § 1746:

1. I am a partner with the law firm of Saul Ewing LLP, attorneys for Defendants Peter L. Kohnstamm and Elizabeth K. Ogden. As such, I am fully familiar with the facts set forth herein.

2. Attached hereto are true and correct copies of the following documents:

Exhibit A: Transcript of February 3, 2006 Hearing before the Honorable Charles A. Little, J.S.C.

Exhibit B: Amended Order of March 22, 2006

Exhibit C: Third Party Complaint in New Jersey Action

I declare under penalty of perjury that the foregoing is true and correct.

s/ _____
Michael A. Lampert

Dated: October 22, 2007
Philadelphia, Pennsylvania

EXHIBIT A

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, CIVIL PART
CAMDEN COUNTY
DOCKET NO.:
A.D.#: _____

PLEASANT GARDENS REALTY,)
CORP.,)
)
Plaintiffs,)
)
vs.)
)
H. KOHNSTAMM & CO., INC.,)
et al.,)
)
Defendants.)

TRANSCRIPT
OF
HEARING

Place: Camden County Courthouse
25 N. 5th Street
Camden, N.J. 08102

Date: February 30, 2006

BEFORE:

HONORABLE CHARLES A. LITTLE, J.S.C.

TRANSCRIPT ORDERED BY:

SHANNA P. O'NEAL, ESQUIRE (Saul, Ewing)

APPEARANCES:

JOHN F. STOVIK, ESQUIRE (Saul, Ewing)
SHANNA P. O'NEAL, ESQUIRE
Attorney for Dan and Elizabeth Kohnstamm, Kenneth and
Adam Kohnstamm, Joshua and Ricka Robb Kohnstamm, Peter
Kohnstamm and Mary Kohnstamm.

DENNIS KRUMHOLZ, ESQUIRE (Riker, Danzig)
Attorney for Richard Kohnstamm, David Kohnstamm,
Jeffrey Kohnstamm, John Kohnstamm and Kevin Kohnstamm.

ROBERT FELTOON, ESQUIRE (Conrad, O'Brien)
Attorney for Abby Kohnstamm

Colloquy

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1 (Court in Session)
 2 THE COURT: Pleasant Gardens. We have half
 3 the people here anyway. Come on down sport's fans.
 4 Are you guys in those other 500 Pleasant Gardens that
 5 Judge Colalillo was so nice to assign to me?
 6 COUNSEL: No.
 7 THE COURT: Are we having a jury
 8 presentation?
 9 COUNSEL: No, I just wanted to liven it up,
 10 Your Honor, if I may with a --
 11 THE COURT: You got to get a little better
 12 than boards, I can tell you that. You get some dancing
 13 girls to come across with those.
 14 All right, gentlemen, this is -- I lost my
 15 place and my mind, too. That's all right. Enter your
 16 appearances.
 17 MR. STOVIK: Your Honor, John Stovik. And
 18 I'm with Shanna O'Neal from Saul, Ewing. We represent
 19 third party defendants that are moving, Dan and
 20 Elizabeth Kohnstamm, Kenneth and Adam Kohnstamm, Joshua
 21 and Ricka Robb Kohnstamm, Peter Kohnstamm and Mary
 22 Kohnstamm.
 23 THE COURT: What about Paul? Did you name
 24 Paul?
 25 MR. STOVIK: Paul Kenneth is his name, but

Colloquy

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1 he goes by Kenneth.
 2 THE COURT: You have Mary, Paul, and Peter,
 3 what was the singing group?
 4 MR. STOVIK: Peter, Paul and Mary.
 5 THE COURT: Peter, Paul and Mary. You don't
 6 have any Mary's.
 7 MR. STOVIK: I do have a Mary.
 8 THE COURT: I have a Rick, Richard, Sarah,
 9 Peter, Paul, Paul, Mary -- hey, we do have a Mary --
 10 Kevin, Joshua, John, Jeffrey, Elizabeth, David, Daniel
 11 and Abby. Any on the next page? Yes. Adam. Okay.
 12 Who do the rest of you guys have?
 13 MR. KRUMHOLZ: Your Honor, Dennis Krumholz,
 14 I'm here with Jay Eversman from the Riker, Danzig firm
 15 on behalf of third party defendants Richard Kohnstamm,
 16 David Kohnstamm, Jeffrey Kohnstamm, John Kohnstamm and
 17 Kevin Kohnstamm.
 18 MR. FELTOON: Your Honor, Bob Feltoon from
 19 Conrad, O'Brien. I'm here for just one third party
 20 defendant, Abby Kohnstamm.
 21 THE COURT: Abby wouldn't take the stock,
 22 right?
 23 MR. FELTOON: Pardon me, Your Honor?
 24 THE COURT: Abby refused to take the stock,
 25 she said she didn't want it?

Stoviak - Argument

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MR. FELTOON: Yes. Abby and her husband Peter did not take the General Color stock.

THE COURT: Right.

MR. BOGDONOFF: Your Honor, Mike Bogdonoff, from Dechert representing Sensient Colors, Inc. And I'm joined by John IX, also from Dechert.

THE COURT: Okay. Who wants to run it?

MR. STOVIK: Your Honor, if I may? John Stoviak, again. I'm going to split up the argument on behalf of the moving third party defendants. I'm going to talk about why there should be no piercing of the corporate veil, and why the request here, set forth on the third-party complaint, is totally unprecedented.

Mr. Krumholz is going to speak to the one basis upon which the third party plaintiff seeks to pierce the corporate veil, the ECRA filings and submissions.

And essentially, in light of Your Honor's comment about the shareholders getting out of this case, I'm going to focus my argument on the two individuals that are also directors and why you should also dismiss them from the case.

All of the moving third-party defendants are minority shareholders in H. Kohnstamm -- or were minority shareholders in H. Kohnstamm. Only Kenneth

Stoviak - Argument

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Kohnstamm and Richard Kohnstamm were directors of H. Kohnstamm.

And essentially why they should be dismissed, even though they were directors of H. Kohnstamm, is the following reason. Number one, the third party complaint only sues them in their capacity as shareholders. There are no allegations whatsoever in the third party complaint that either Kenneth Kohnstamm or Richard Kohnstamm engaged in any improper activities as a director of H. Kohnstamm, up until 1988.

Or as a --

THE COURT: Richard and Kenneth were both directors?

MR. STOVIK: Richard and Kenneth were both directors. Secondly, as a matter of law a corporation cannot pierce its own corporate veil. And if I may, Your Honor, may I use the chart here to make my point?

THE COURT: Yes.

MR. STOVIK: Essentially, what you have here in this instance, Your Honor, is you have H. Kohnstamm & Company, Inc. a New York corporation that existed and still exists today. But from 1922 to 1988, it owned the Camden property, it owned the General Color Company stock and the moving third party defendants only accounted for 25.982 percent of its stock.

Stoviak - Argument

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1 In 1988, the transaction that's at issue,
 2 Universal Foods Corporation, which is also represented
 3 by the third party plaintiffs here and is a defendant
 4 in this case, bought the stock of H. Kohnstamm, and
 5 along with it picked up the liabilities as a matter of
 6 sort of form of corporate law.

7 When you buy the stock, you pick up the
 8 liabilities of that corporation. Then in, I think,
 9 2002, H. Kohnstamm Company still existed as a wholly
 10 owned subsidiary of Universal Foods, and it was
 11 ultimately renamed Sensient Colors, Inc., a New York
 12 corporation, which is the third party plaintiff.

13 So H. Kohnstamm & Company is now Sensient
 14 Colors, Inc. Nothing's changed about it, other than
 15 its name has changed, its stock ownership changed in
 16 1988 to Universal Foods, but it is the same
 17 corporation.

18 And what Sensient Colors, Inc. is trying to
 19 do here, as the third party plaintiff, is essentially
 20 pierce its own corporate veil and say its own corporate
 21 existence is a sham and that you should impose
 22 liability on its own shareholders. The minority moving
 23 third party defendants. Or, in the instance of the
 24 directors, but the -- Mr. Richard Kohnstamm and Mr.
 25 Kenneth Kohnstamm are only sued as shareholders.

Stoviak - Argument

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1 But there's no -- that argument would still
 2 apply as a matter of law that you can't pierce your own
 3 corporate veil to impose liability on directors.

4 Particularly here, where there is a total
 5 absence of any allegation of fraud, or intentional
 6 wrongdoing, or any action that would create a manifest
 7 injustice.

8 There is no allegation that Ken or Richard
 9 were involved in the ECRA submission, that is the
 10 linchpin of the whole theory of this third party
 11 complaint to justify piercing the corporate veil.

12 They are sued essentially in their status as
 13 shareholders, and, as Mr. Krumholz will cover, the ECRA
 14 submission doesn't justify piercing the corporate veil.
 15 It was a submission made by H. Kohnstamm & Company,
 16 which is now Sensient Colors, the third party
 17 plaintiff.

18 And to illustrate why this case should be
 19 dismissed now as a matter of law, you'd simply need to
 20 look at the situation in the Arky's case, where you had
 21 a situation where there was a Spill Act claim brought
 22 by the State Department of Environmental Protection
 23 against Arky's Auto Sales, Inc., and two twin brothers,
 24 Stanley and Norman Arky.

25 Stanley and Norman Arky happened to go buy a

Stoviak - Argument

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1 piece of property in the name of the corporation in
2 1971, a 22 acre parcel. They shortly thereafter leased
3 out 6 acres, which became a dumping ground for drums.

4 1973 there was a fire on the property and the
5 drums started to explode and leak all over the place.
6 The State Department of Environmental Protection then
7 started an investigation about this activity and found
8 out that the Arky brothers had gone in and dug a pit on
9 the property and were burying these drums in that pit.

10 They sued both Arky's Auto Sales, and the
11 Arky individual brothers. The trial court found that
12 the corporate veil should be pierced and there should
13 be individual liability on the two twin brothers,
14 Stanley and Norman.

15 The Appellate Division reversed and said,
16 there is no allegation and no evidence, in that case,
17 since it was a trial, of any fraud by those
18 individuals. And absent that, you can't go pierce the
19 corporate veil and impose the extraordinary equitable
20 remedy of piercing the corporate veil.

21 Well here, you have minority shareholders
22 being sued in their capacity as shareholders. You
23 simply have no allegation whatsoever of any fraud, any
24 injustice, or any attempt by these minority
25 shareholders, including the two directors, to treat the

Stoviak - Argument

11

1 corporation as a sham, or to create any fraud.

2 Therefore, you should dismiss the case as a
3 matter of law for failure to state a claim. In
4 addition, on the personal jurisdiction side, the third
5 party plaintiff has the burden to make out a prima
6 facie case pursuant to the Disney case. Despite having
7 limited discovery on personal jurisdiction issues, they
8 have not submitted any information, other than their
9 bare-bones allegations in the third party complaint,
10 that the moving third party defendants reside in
11 Oregon, Montana, Minnesota, Connecticut, New York.

12 None of them reside in New Jersey, none of
13 them work in New Jersey. None of them hold bank
14 accounts in New Jersey. None of them own any real
15 estate, or lease any real estate in New Jersey. None
16 of them pay taxes.

17 There is no basis for imposing personal
18 jurisdiction on these individuals. There is no minimum
19 contact on these individuals that justifies that. And
20 in fact, the ECRA submission, which is what they argue
21 in their complaint, gives them a right to argue that
22 there was a basis for specific jurisdiction, because
23 there was an ECRA submission to the -- a letter
24 submitted to New Jersey Department of Environmental
25 Protection.

Krumholz - Argument

12

1 That doesn't give them jurisdiction here,
 2 because there's no evidence, and in fact the documents
 3 attached to the complaint show that the ECRA
 4 submission, the letters, were submitted on behalf of H.
 5 Kohnstamm, not on behalf of the shareholders.

6 Not on behalf of the moving third party
 7 defendant minority shareholders. Not on behalf of any
 8 of the directors. It was submitted on behalf of H.
 9 Kohnstamm. There's no allegation that any of the
 10 moving third party defendants had any role in the ECRA
 11 submission.

12 So that doesn't get you to a point where you
 13 can justify imposing personal jurisdiction over these
 14 moving third party defendants.

15 I'm happy to answer any questions Your Honor
 16 might have. Obviously, based on your initial comment,
 17 I think there's absolutely no basis to keep the
 18 shareholders in this case, as well.

19 MR. KRUMHOLZ: If I may Your Honor? I'm Mr.
 20 Krumholz, on behalf of certain of the moving third
 21 party defendants. And I'd like to focus on the ECRA
 22 aspect of this motion.

23 ECRA is now the Industrial Site Recovery Act,
 24 but it was adopted in 1983 as the Environmental Cleanup
 25 Responsibility Act.

Krumholz - Argument

13

1 It was enacted by the legislature for a
 2 variety of reasons. The main one of which was that
 3 they felt that the Government shouldn't be the only
 4 party paying for remediation of hazardous waste sites.

5 They felt that private parties should be
 6 responsible.

7 THE COURT: The only thing that letter said
 8 was, based upon the form of transaction, they had no
 9 jurisdiction. Isn't that what the letter said?

10 MR. KRUMHOLZ: That's basically right.
 11 There's --

12 THE COURT: If they had changed to another
 13 form of -- like if they were going to sell it to you,
 14 then they had to get approvals from ECRA.

15 MR. KRUMHOLZ: You're right, Your Honor. The
 16 basis of the submittal was to take advantage of the
 17 language in the statute which says, there's no
 18 jurisdiction where there's a corporate reorganization
 19 not substantially effecting ownership.

20 And the argument that the corporation made
 21 was, this is such a transaction. Before the
 22 transaction, there will be certain beneficial owners.
 23 After the transaction, essentially the same beneficial
 24 owners, even though there's been a transaction on the
 25 change in corporations.

Krumholz - Argument

14

1 And that kind of situation is what we think
2 the legislature meant by a corporate reorganization.
3 That was the basis of the filing, and DEP agrees with
4 the filing. And they granted the letter of
5 non-applicability.

6 Now the third party plaintiff alleges that
7 that even somehow becomes translated into a waiver of
8 the corporate veil protection. And we submit that
9 there is no legal authority for that proposition at
10 all. That's the essence of their case.

11 As Mr. Stoviak said, there's no claim of
12 fraud, or injustice, or sham, or alter ego. None of
13 the traditional bases for piercing the veil is present,
14 is alleged, nor could it in good faith be alleged. The
15 only claim for liability is this ECRA submission.

16 And I submit to you, Your Honor, that that's
17 an insufficient basis for liability. There's no
18 support in the law anywhere, nor any cited by third
19 party plaintiffs to suggest that that's a valid cause
20 of action.

21 Indeed, all the DEP did, nothing more, is to
22 recognize the facts. Which is the beneficial owner
23 doesn't change. In recognizing that the beneficial
24 owner remains the same, that doesn't pierce the veil,
25 that doesn't say the beneficial owner has liability.

Krumholz - Argument

15

1 ECRA is not a liability statute. And, certainly, the
2 DEP is not a court of equity reaching conclusions about
3 equitable matters like piercing the veil. DEP was
4 simply reaching the conclusion that, on these facts,
5 the transaction met the test of corporate
6 reorganization, but it did not in any way act in
7 derogation or abrogation of the corporate veil
8 principles.

9 And since that is the only allegations and it
10 cannot be made out as a matter of law, we submit that
11 the claim -- the entire third party claim should fail.

12 THE COURT: Think ECRA's decision would have
13 been different, had Universal bought the assets and not
14 just the stock?

15 MR. KRUMHOLZ: If at the time that the assets
16 were transferred, but the Camden facility was not among
17 the assets. I don't think the answer would be
18 different. I think it would be the same. Because what
19 they were focusing on was the Camden facility. And
20 before the transaction, it was owned by a company H.
21 Kohnstamm, whose shareholders were generally the family
22 members, let's say.

23 After the transaction, it was owned by
24 General Color Company, whose shareholders were
25 generally the same individuals. Whether the purchase

Krumholz - Argument

16

1 of the company, H. Kohnstamm, or other assets,
 2 non-Camden assets was done, formed not too important
 3 with respect to the Camden facility. That was carved
 4 out.

5 And I might add, Your Honor, that it was
 6 carved out at the request of the buyer, at the request
 7 of Sensient Colors, who said, we will take H. Kohnstamm
 8 without Camden. We don't want Camden. In fact, you
 9 must obtain a letter of non-applicability, or else
 10 we're not going to proceed with the transaction.

11 So I don't think the form -- to answer your
 12 question, the form of the transaction wouldn't matter,
 13 as long as the Camden facility had been eliminated, as
 14 it was.

15 THE COURT: And also there was a property in
 16 Newark that was not included?

17 MR. KRUMHOLZ: There was property in Newark
 18 that was owned by General Color, which, since General
 19 Color was not transferred to the Universal side, was
 20 also not transferred, that's correct.

21 THE COURT: Has there been any litigation
 22 involving that? Out of curiosity. I don't want it
 23 here, if there is.

24 MR. KRUMHOLZ: As far as I know, Your Honor,
 25 we were curious also, none. I'm not aware of any..

Bogdonoff - Argument

17

1 THE COURT: All right. Thank you.

2 MR. KRUMHOLZ: Thank you, Your Honor.

3 THE COURT: All right.

4 MR. BOGDONOFF: Your Honor, Mike Bogdonoff on
 5 behalf of Sensient Colors. The -- Mr. Krumholz is
 6 right that Universal did not want this company. And --
 7 this property in Camden. This was operated by the
 8 Kohnstamm family shareholders, in essence from the
 9 period 1922 through 1988.

10 Or the Kohnstamm family generally, not
 11 necessarily these specific shareholders. These movants
 12 have portrayed themselves as minority shareholders.
 13 They were not the minority shareholders in this
 14 particular transaction. Those minority shareholders
 15 were treated much differently than the movants.

16 They were defined separately and they were
 17 effectively squeezed out of the transaction. And they
 18 didn't get the benefit of this 10 million dollar deal
 19 that ultimately rebounded to the benefit of the
 20 Kohnstamm family shareholders in the amount of 8
 21 million dollars.

22 They were essentially squeezed out. None of
 23 the true minority shareholders in this case had to do
 24 the things that the movants were required to do to make
 25 this deal happen. None of the true minority

Bogdonoff - Argument

18

1 shareholders were required to sign a shareholder
 2 agreement. They were not required to sign a
 3 representation letter. They weren't required to sign
 4 affiliate letters. They weren't required to sign the
 5 reorganization agreement.

6 Essentially, they were given a pass and they
 7 walked out of the matter with essentially no benefit of
 8 this Universal deal. These movants, on the other hand,
 9 profited wildly on this transaction, and with the
 10 understanding that ultimately they would have to be
 11 responsible for the cleanup of the Camden property.

12 Now the Camden property is the subject of EPA
 13 clean-up, and the movants are nowhere to be heard from.
 14 The express understanding of Universal in the
 15 transaction, was that they were not going to take the
 16 Camden property. It was well-recognized by Universal
 17 and the Kohnstamm family shareholders, that this was an
 18 environmentally troubled property.

19 In fact, Abby and Peter elected not to take
 20 General Color stock, because they recognized the
 21 environmental problems.

22 Paul Kenneth, referred to as Kenneth by Mr.
 23 Stoviak, made marginal notes saying that the downside
 24 of this transaction is that ultimately it's going to
 25 fall on the family to be responsible for General Color.

Bogdonoff - Argument

19

1 Now the injustice that we're seeking to
 2 address here in the piercing of the veil, is
 3 essentially telling the DEP, or having representations
 4 made to the DEP for the benefit of these folks to let
 5 this transaction go through as it was. That the
 6 beneficial ownership of General Color would be the same
 7 as the Kohnstamm Company.

8 And, in fact, it wasn't, but they made
 9 representations that, notwithstanding the fact that
 10 they weren't -- that Kohnstamm was 100 percent
 11 shareholder interest of which they had approximately 80
 12 percent, less than 100 percent of those shareholders
 13 were going to become the owners of General Color. And
 14 they said, recognize this for what it is. We, the
 15 Kohnstamm family shareholders, are -- or they the
 16 Kohnstamm family shareholders, are in control of this
 17 company, and that will happen -- that will be the case
 18 both before and after this transaction, when General
 19 Color gets the -- is transferred to those Kohnstamm
 20 family shareholders.

21 Now with respect to the personal jurisdiction
 22 on the veil piercing, the Phar-Mor case, which is cited
 23 in our papers, and the In Re Buildings by Jamie case,
 24 speak to this issue of piercing one's own veil.

25 Now recognizing that there are issues with

Bogdonoff - Argument

20

1 respect to the core proceedings and non-core
 2 proceedings, the controlling precedent, the Third
 3 Circuit opinion in the Phar-Mor case, does recognize
 4 that New Jersey law allows for the piercing of one's
 5 own veil and the idea here is that --

6 THE COURT: Kohnstamm's a New York
 7 corporation, isn't it?

8 MR. BOGDONOFF: That's correct, Your Honor.
 9 However, New Jersey has a far greater interest in
 10 seeing to it that its environmental sites are cleaned
 11 up. And, certainly, this Court has the authority to
 12 exercise jurisdiction and to have its law applied in
 13 the circumstance of piercing the veil.

14 The evidence with respect to the piercing is
 15 indeed with respect to this ECRA claim and the -- as I
 16 described, the submittal was made to the DEP by
 17 Kohnstamm Company to say, in essence, these are the
 18 same controlling interests as before, as will be in
 19 place after, to take advantage of that exemption to
 20 ECRA.

21 The reason they needed that exemption to
 22 ECRA, was Universal clearly didn't want the property.
 23 So that would mean that the Kohnstamm family
 24 shareholders and General Color would have to
 25 immediately initiate a cleanup, if that exemption were

Bogdonoff - Argument

21

1 to not -- to be found not to apply.

2 So, basically, we have the Kohnstamm family
 3 shareholders and this representation made to the DEP
 4 that says, this is the same controlling interest that
 5 both before and after the transaction, and as a result,
 6 DEP, don't worry the same people will be here after
 7 this transaction and will be responsible for the
 8 environmental cleanup.

9 What happened, in fact, though, is that the
 10 company limped along, and in and around 1990, the
 11 company began a series of redemptions that we only
 12 found through this limited discovery period that we've
 13 had. And this redemption process effectively had all
 14 of these family shareholder interests, had their stock
 15 redeemed, albeit four cents on the dollar, and they
 16 essentially walked out the back door, leaving this
 17 environmentally troubled site to stay with Paul
 18 Kohnstamm and General Color Company and its remaining
 19 shareholders and insufficient assets available to
 20 ultimately cleanup the property.

21 The personal contacts that these individuals
 22 had with the State of New Jersey are significant. Each
 23 of them, and these are all laid out in our papers. But
 24 each of them signed one or more documents that were
 25 necessary to make this transaction occur.

Bogdonoff - Argument

22

1 And, as noted, even young Adam, a minor, was
 2 required to sign these papers in order to effectuate
 3 this transaction. So the fact that these are portrayed
 4 as minority is not necessarily the case, because
 5 collectively, with the various trusts and with Paul
 6 Kohnstamm's share, they equated to approximately 81
 7 percent of the share hold interest.

8 Two of these individuals were directors and
 9 they had fiduciary obligations to be involved with the
 10 company. And to say that they don't have a reasonable
 11 expectation to be hailed into Court in New Jersey,
 12 given the fact that this transaction involved, not one,
 13 but two environmentally troubled sites within the State
 14 of New Jersey, as Your Honor correctly noted.

15 The Newark site still exists and is the
 16 subject of EPA cleanup, although no litigation as yet.
 17 And this Camden property, this is a multi-million
 18 dollar business deal, each of them actively reviewing
 19 documents and signing documents, representations being
 20 made for their benefit to various state agencies.
 21 Environmentally troubled sites.

22 And for them to have a sense that they
 23 shouldn't be responsible for a New Jersey litigation,
 24 doesn't comport with the law.

25 Finally, with respect to the failure to state

Stoviak - Argument

23

1 a claim. The rules, obviously, are fairly liberal and
 2 hospitable and the relief that the movants are
 3 requesting is fairly extraordinary. We believe that
 4 the veil piercing allegations, based on the evidence as
 5 we presented in the personal jurisdiction argument, are
 6 meritorious. And we also believe that the direct
 7 liability under the Spill Act is appropriate. And
 8 particularly in light of this scheme that we've
 9 discovered with respect to cashing out, or redeeming
 10 out their ownership in General Color.

11 I'd be happy to respond to any questions,
 12 Your Honor.

13 MR. STOVIK: Your Honor, briefly just a
 14 couple of rebuttal points. Number one, you're right,
 15 H. Kohnstamm is a New York corporation. Number two,
 16 the only thing extraordinary is the request to pierce
 17 the corporate veil against shareholders who, the issue
 18 before this Court are the minority third party -- are
 19 the moving third party defendants, who are minority
 20 shareholders.

21 Including Adam Kohnstamm, who was five years
 22 old in 1988, at the time of the transactions. And what
 23 is not before your court is the Estate of Paul
 24 Kohnstamm or the trust. We don't represent those
 25 trusts, we don't represent the Estate of Paul

Stoviak - Argument

24

1 Kohnstamm. That is not before the Court.

2 And you have to look, as Mr. Bogdonoff in his
3 brief concedes, you have to look at each of these
4 individual third party defendants on an individual
5 basis.

6 And none of them held any controlling share
7 in the company than collectively the moving third party
8 defendants accounted for roughly 26 percent, as you've
9 seen.

10 Secondly, what is before the Court, there is
11 no allegation, even though Mr. Bogdonoff wants to make
12 it that the Kohnstamm family shareholders dominated, or
13 controlled H. Kohnstamm, because they can't make that
14 allegation, because they are H. Kohnstamm.

15 There's no allegation that H. Kohnstamm,
16 which is now the third party plaintiff here, was a
17 corporate sham. There's no basis in the law that H.
18 Kohnstamm now sends in Color, the third party
19 plaintiff, can turn around and sue its former
20 directors, its former minority shareholders.

21 It doesn't make any sense. They might be
22 able to sue them for a breach of fiduciary duty, if
23 they thought there was a breach, and the statute of
24 limitations hadn't run. But they don't have that
25 claim, they haven't alleged that claim. What is

Krumholz - Argument

25

1 alleged, is that they're asking this Court to invoke --
2 or allow them to proceed on a claim to invoke the
3 extraordinary remedy of piercing the corporate veil,
4 based on the status of the moving third party
5 defendants as shareholders, and they were minority
6 shareholders, absent any allegation of fraud.

7 Absent any allegation of any injustice, and
8 absent any allegation that the corporation was treated
9 as a sham.

10 Thank you.

11 MR. KRUMHOLZ: Just a few points in rebuttal,
12 as well, Your Honor. I think there are a couple of
13 misstatements. If the ECRA letter of
14 non-applicability had not been granted, the
15 responsibility for -- and the deal had gone through,
16 the responsibility for the remediation would have been
17 with Sensient.

18 Sensient became H. Kohnstamm, the company
19 that operated the facility. They would have been
20 responsible for the remediation. And that's why I made
21 the point earlier that it was in their interest, indeed
22 their insistence, that this facility be taken out of
23 the transaction, so that they could avoid that
24 responsibility.

25 Similarly, down the road, it was never the

Krumholz - Argument

26

1 responsibility of the shareholders of General Color for
 2 the remediation of the Camden facility. It was the
 3 responsibility of the company itself, General Color,
 4 for the remediation.

5 I think, throughout the arguments, both here
 6 and in their briefs, the third party plaintiffs
 7 confused -- conflate this idea of beneficial owners and
 8 legal owners.

9 If it were a simple case, which I'd like to
 10 suggest to you now, it would be more easily
 11 illustratable that this is not the case. If, for
 12 example, Mr. Bogdonoff and I were shareholders in a
 13 company, which owned a facility, and we wanted to
 14 transfer the ownership of that facility to another
 15 company that he and I owned, we would do that and we
 16 would go to DEP and we would say, this is a corporate
 17 reorganization, because the beneficial owners Mr.
 18 Bogdonoff and I, are the same before and the same
 19 after. The only thing that's changed is a blue company
 20 to a red company.

21 And DEP likely would say, yes, there's not an
 22 ECRA event here. That's essentially what happened
 23 here, if you strip the details away. That's
 24 essentially what happened. And on that basis, the
 25 plaintiffs are arguing, that subjects those beneficial

Feltoon - Argument

27

1 owners to liability. In my hypothetical, it would
 2 subject Mr. Bogdonoff and me to liability, even though,
 3 as in this case, there is no allegation of any fraud,
 4 any wrongdoing, any error in the ECRA filing, any alter
 5 ego, or similar theory that our law traditionally
 6 requires for piercing the veil.

7 So all DEP did was say, these are the facts,
 8 but the fact that the beneficial owners haven't changed
 9 -- haven't changed, doesn't make them in any way
 10 liable. That's the only basis on which this claim is
 11 brought. And that's why we submit to you as matter of
 12 law on the motion to dismiss, since there are no facts
 13 that could be established to prove that claim. Since
 14 the law doesn't support piercing the veil under these
 15 facts, there can be no judgment awarded at the end of
 16 the day for the third party plaintiffs. And,
 17 therefore, a motion to dismiss now would be
 18 appropriate.

19 MR. FELTOON: Your Honor, I didn't rise
 20 before, but since Mr. Bogdonoff mentioned my client,
 21 I'll just make a brief comment.

22 He mentioned that my client Abby Kohnstamm
 23 and her husband Peter, in not purchasing General Color
 24 shares recognized the environmental problems, that's a
 25 gross misstatement of the record, which he even

Bogdonoff - Argument

28

recognizes, Mr. Bogdonoff, in his brief at page 10.

All my clients recognize was that his client, Universal Foods, had said they believed there were environmental concerns. Both Abby and Peter Kohnstamm, and all of the other moving third party defendants, have put in sworn certifications saying they, all of them, had no personal knowledge of any environmental issues at the site.

And the only thing that anyone knew was that Universal believed there may. And that record, as to my client and my colleagues clients, is undisputed. Thank you, Your Honor.

MR. BOGDONOFF: Your Honor, if I may? If I misstated the record with respect to Abby and Peter Kohnstamm, I stand corrected and did not want to mislead the Court.

The -- in fact, the affidavits do say that they recognized that Universal had no interest in this because of the environmental issues. And ultimately, they elected not to take the stock. And I think that's a fair characterization of what it was that was done.

In contrast to what Mr. Stoviak said, there are allegations, Your Honor, in the third party complaint with respect to misuse of the corporate form. At paragraph 37, the allegation reads:

Bogdonoff - Argument

29

"The above referenced representations and actions of third party defendants evidence a level of control over H. Kohnstamm & Company, Inc. and General Color Company, such that these corporations were mere instrumentalities, or alter egos of the Kohnstamm family shareholders, third party defendants."

And at paragraph 38, Your Honor, the allegation is that the third party defendants abused the corporate form to further their personal interests. So there are allegations of record that directly address the points that Mr. Stoviak made.

With respect to the --

THE COURT: Where's the proof?

MR. BOGDONOFF: Well, Your Honor, the -- as a matter of pleading, the pleadings are sufficient with respect --

THE COURT: I can charge the Bishop of Boston with bothering my child. But, you know, I have to prove it.

MR. BOGDONOFF: Well, ultimately it will be our burden to prove those things, Your Honor. And that's what discovery and trials are all about.

However, Your Honor, with respect to a motion to dismiss, the standard is, does it fairly apprise our

Bogdonoff - Argument

30

adversaries of the nature of the claims to be brought against them. In essence, it's a -- we've alleged all the allegations that I've described with respect to the ECRA submittals. These are based on the ECRA submittals and it's the same -- of interest that these parties asked be recognized.

In other words, that there was Kohnstamm, General Color and the Kohnstamm family shareholders and they were essentially the same, or substantial continuation of that former entity.

The -- all of the movants submit that the Kaufman affidavit that was submitted to ECRA was factually correct, so there's no dispute as to that. So that is evidence, Your Honor, of this level of control as we've alleged in the third party complaint.

With respect to what Mr. Krumholz said about what the outcome might be if the ECRA non-applicability application were denied, there would have been no transaction, it would not have fallen to Universal. Universal had no intention of buying this property. And, in fact, there was a condition precedent of the deal that ECRA non-applicability be determined, and if not, then there would have been no acquisition.

Thank you, Your Honor.

Stoviak - Argument/Ruling

31

MR. STOVIK: Your Honor, just a quick rejoinder. Those allegations are simply incantations of conclusory things. My point is, there are no facts alleged in the complaint that justifies a claim of fraud, treating the corporation as a sham, or alter ego, other than their claim about the ECRA filing, which we've addressed on its face.

And based on the documents attached to the complaint, doesn't justify invoking the extraordinary remedy of piercing the corporate veil.

They do have an obligation to be able to allege facts, if, in fact, they could prove that would justify a claim as a matter of law. And they haven't done that here. They've just simply recited the conclusions.

THE COURT: They recited the case law.

MR. FELTOON: Pardon me?

THE COURT: They recited the case law. Those things which must be proven in order to pierce the corporate veil. Such as, was a mere instrumentality, or alter ego of the shareholders, or the shareholders abused the corporate form to perpetuate a fraud, or otherwise circumvent the law.

That proof must be by clear and convincing evidence, by the way. And based upon the facts, as if

Ruling

32

1 have, in these briefs and in your arguments, I will
 2 dismiss those complaints, that part of the complaints
 3 where the corporate veil is sought to be pierced,
 4 because I see no facts alleged which would support a
 5 claim that the corporation was a mere instrumentality
 6 or alter ego of the shareholders.

7 At most, you had two of them, Richard and
 8 Kenneth, who were directors of the corporations. They
 9 were in a position as directors to do something. I
 10 don't know what they did or didn't do. But as far as
 11 minority shareholders, there's no proof of the mere
 12 instrumentality or alter ego of the shareholders when
 13 the corporation did what it did, or didn't do what it
 14 should have done.

15 And also there are no facts before the Court
 16 which would show that the shareholders abused the
 17 corporate form to perpetuate -- or perpetrate, I'm
 18 sorry, a fraud, or otherwise to circumvent the law.

19 And as I stated earlier, those proofs would
 20 have to be by clear and convincing evidence. So the
 21 corporate veil is not pierced. As far as dismissing as
 22 to the individual shareholders, I find this Court has
 23 no jurisdiction of those shareholders.

24 I think, one, on the affidavits I've read
 25 only one individual stated that he had ever been to New

Ruling

33

1 Jersey. And I think he came to Camden New Jersey on
 2 one occasion. For what reason, I forget. But one of
 3 the -- and he's probably -- it's either Richard or
 4 Kenneth did come to New Jersey. I don't know which one
 5 it was. But they did come to New Jersey. And for what
 6 reason, I even forget that. But the -- as far as the
 7 individual minority shareholders are concerned, I will
 8 grant your motions, there being no personal
 9 jurisdiction, no minimum contacts, no contacts, outside
 10 of other than the one individual, and I forget which
 11 one that was.

12 But still and all there's insufficient
 13 contacts with the State of New Jersey to give New
 14 Jersey a jurisdiction over that individual.

15 And I think that's it, isn't it?

16 MR. STOVIAK: Yes, Your Honor. Thank you.

17 THE COURT: Are you going to bring the action
 18 in New York to pierce the veil?

19 MR. BOGDONOFF: Excuse me, Your Honor?

20 THE COURT: Are you going to bring the action
 21 in New York to pierce the veil?

22 MR. BOGDONOFF: We'll be looking into all of
 23 our recourse Your Honor.

24 THE COURT: This was before Fratto, Judge
 25 Fratto, and he sent this back to New York, didn't he?

Colloquy

34

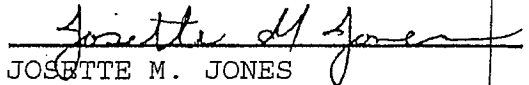
1 MR. BOGDONOFF: That was a different matter,
2 Your Honor.
3 THE COURT: Another one?
4 MR. BOGDONOFF: Yeah. And I --
5 COUNSEL: The insurance case that he sent
6 back to New York.
7 MR. BOGDONOFF: I think that was just made
8 subject of appeal on Tuesday, Your Honor.
9 THE COURT: I guess this one will be, too.
10 That's all right.
11 MR. STOVIK: Thank you, Your Honor.
12 MR. BOGDONOFF: Thank you, Your Honor.
13 (Case adjourned)
14 * * * * *
15

35

CERTIFICATION

1
2
3 I, Josette M. Jones, the assigned transcriber, do hereby
4 certify that the foregoing transcript of proceedings on
5 tape number 1, February 3, 2006, index number from 1999 to
6 4956, is prepared in full compliance with the current
7 Transcript Format for Judicial Proceedings and is a true
8 and accurate compressed transcript of the proceedings as
9 recorded.

10
11 Signature:


JOSETTE M. JONES
AOC #457

DIANA DOMAN TRANSCRIBING

12
13
14
15
16
17 Date:

02/24/06

EXHIBIT B

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RIKER, DANZIG, SCHERER, HYLAND & PERRETTI LLP

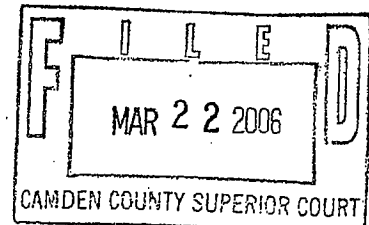
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Attorneys for Third Party Defendant Abby F. Kohnstamm



PLEASANT GARDENS REALTY
CORPORATION,

Plaintiff,

v.

H. KOHNSTAMM & COMPANY, INC.,
et al.,

Defendants,

SENSIENT COLORS INC.,

Defendant/Third Party Plaintiff,

v.

DAVID C. BEAL, et al.

Third Party Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - CAMDEN COUNTY

DOCKET NO.: CAM-L-6579-03

Civil Action

Amended
**ORDER DISMISSING
THIRD PARTY COMPLAINT FOR
LACK OF PERSONAL JURISDICTION
AND
FOR FAILURE TO STATE A CLAIM
UPON WHICH RELIEF MAY BE
GRANTED**

THIS MATTER having been brought to the Court by Joint Motion of the Moving Third Party Defendants to dismiss the Third Party Complaint in the above captioned matter for lack of

personal jurisdiction and for failure to state a claim upon which relief may be granted, and the court having considered the submissions and argument of the parties, and for good cause shown:

IT IS ORDERED on this 22 day of March, 2006, that the Moving Third Party Defendants' Motion be and hereby is GRANTED. The Third Party Complaint is DISMISSED WITH PREJUDICE.



CHARLES A. LITTLE, J.S.C.

____ Opposed

____ Unopposed

EXHIBIT C

Michael A. Bogdonoff, Esq.
John M. Ix, Esq.

DECHERT LLP

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ATTORNEYS FOR DEFENDANTS H. Kohnstamm & Company, Inc., Warner-Jenkinson Company, Inc., Sensient Colors Inc.,
Sensient Technologies Corporation, formerly known as Universal Foods Corporation, and Universal Foods Corporation.

PLEASANT GARDENS REALTY
CORPORATION

Plaintiff,

v.

H. KOHNSTAMM & COMPANY, INC.;
WARNER-JENKINSON COMPANY, INC.;
SENSIENT COLORS INC.; SENSIENT
TECHNOLOGIES, formerly known as
Universal Foods Corporation; UNIVERSAL
FOODS CORPORATION; GENERAL
COLOR COMPANY; and JOHN SMITH
COMPANIES/INDIVIDUALS 1-20
(fictitious names); J/S/A

Defendants.

SENSIENT COLORS INC.,

Defendant and Third-
Party Plaintiff,

v.

DAVID C. BEAL; EMILY K. BEAL; ABBY
F. KOHNSTAMM; DANIEL FRANK
KOHNSTAMM; DAVID KOHNSTAMM;
ELIZABETH BRYAN KOHNSTAMM;
JEFFREY KOHNSTAMM; JOHN

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - CAMDEN COUNTY

DOCKET NO. L 6579-03

Civil Action

THIRD-PARTY COMPLAINT

KOHNSTAMM; JOSHUA G.
 KOHNSTAMM; KEVIN KOHNSTAMM;
 MARY L. KOHNSTAMM; PAUL
 KENNETH KOHNSTAMM; ESTATE OF
 PAUL L. KOHNSTAMM; PETER L.
 KOHNSTAMM; SARAH FRANCIS
 KOHNSTAMM; RICHARD L
 KOHNSTAMM; RICKA ROBB
 KOHNSTAMM; ELIZABETH K. OGDEN;
 RICHARD L. OGDEN; THOMAS H.
 OGDEN; ADAM MICHAEL
 KOHNSTAMM

Third-Party
 Defendants.

THIRD-PARTY COMPLAINT

Defendant in the above-entitled action Sensient Colors Inc., as third-party plaintiff, having been granted leave pursuant to an Order dated June 21, 2005, complains of David C. Beal, Emily K. Beal, Abby F. Kohnstamm, Daniel Frank Kohnstamm, David Kohnstamm, Elizabeth Bryan Kohnstamm, Jeffrey Kohnstamm, John Kohnstamm, Joshua G. Kohnstamm, Kevin Kohnstamm, Mary L. Kohnstamm, Paul Kenneth Kohnstamm, Paul L. Kohnstamm, Peter L. Kohnstamm, Sarah Francis Kohnstamm, Richard L Kohnstamm, Ricka Robb Kohnstamm, Elizabeth K. Ogden, Richard L. Ogden, Thomas H. Ogden, and Adam Michael Kohnstamm (hereinafter sometimes collectively referred to as "Kohnstamm Family Shareholders"), as Third-Party Defendants, and alleges as follows:

1. Plaintiff Pleasant Gardens Realty Corporation has commenced an action against Sensient Colors, Inc. filed on March 12, 2004, for the causes of action set forth in the complaint. A copy of such complaint is attached as Exhibit A and incorporated by reference.

2. The claims contained in this Third-Party Complaint arise out of the same transaction or occurrence that is the subject matter of Plaintiff's Complaint.

I. PARTIES

3. On information and belief, Third-Party Defendant David C. Beal presently resides at 139 Beaconsfield Road, Apt. 6, Brookline, Massachusetts 02146.

4. On information and belief, Third-Party Defendant Emily K. Beal presently resides at 139 Beaconsfield Road, Apt. 6, Brookline, Massachusetts 02146.

5. On information and belief, Third-Party Defendant Abby F. Kohnstamm presently resides at 15 Ocean Avenue, Larchmont, New York 10538.

6. On information and belief, Third-Party Defendant Daniel Frank Kohnstamm presently resides at 573 Somers Avenue, Whitefish, Montana 59937.

7. On information and belief, Third-Party Defendant David Kohnstamm presently resides at 4805 SW Chestnut Pl., Beaverton, Oregon 97005.

8. On information and belief, Third-Party Defendant Elizabeth Bryan Kohnstamm presently resides at 573 Somers Avenue, Whitefish, Montana 59937.

9. On information and belief, Third-Party Defendant Jeffrey Kohnstamm presently resides at 4618 SE River Dr., Milwaukee, Oregon 97267.

10. On information and belief, Third-Party Defendant John Kohnstamm presently resides at 430 Iron Mountain Blvd., Lake Oswego, Oregon 97034.

11. On information and belief, Third-Party Defendant Joshua G. Kohnstamm presently resides at 36111 Wells Creek Trl., Goodhue, Minnesota 55027.

12. On information and belief, Third-Party Defendant Kevin Kohnstamm presently resides at 3002 NW Luray Circus, Portland, Oregon 97210.

13. On information and belief, Third-Party Defendant Mary L. Kohnstamm presently resides at 118 Millport Avenue, New Canaan, Connecticut 06840.

14. On information and belief, Third-Party Defendant Paul Kenneth Kohnstamm presently resides at 2047 Selby Avenue, St. Paul, Minnesota 55104.

15. Third-Party Defendant Paul L. Kohnstamm is deceased. He resided at presently 118 Millport Avenue, New Canaan, Connecticut 06840 at the time of his death. His estate is in probate in Connecticut. On information and belief, the executor of his estate is Mary L. Kohnstamm.

16. On information and belief, Third-Party Defendant Peter L. Kohnstamm presently resides at 15 Ocean Avenue, Larchmont, New York 10538.

17. On information and belief, Third-Party Defendant Sarah Francis Kohnstamm presently resides at 15 Ocean Avenue, Larchmont, NY 10538.

18. On information and belief, Third-Party Defendant Richard L. Kohnstamm presently resides at 11476 SW Riverwood Road, Portland, Oregon 97219.

19. On information and belief, Third-Party Defendant Ricka Robb Kohnstamm presently resides at 36111 Wells Creek Trl., Goodhue, Minnesota 55027.

20. On information and belief, Third-Party Defendant Elizabeth K. Ogden presently resides at 79 Winfield Avenue, Harrison, New York 10528.

21. On information and belief, Third-Party Defendant Richard L. Ogden presently resides at 117 Wildwing Ext. Pk., Catskill, New York 12414.

22. On information and belief, Third-Party Defendant Thomas H. Ogden presently resides at 79 Winfield Avenue, Harrison, New York 10528.

23. On information and belief, Third-Party Defendant Adam Michael Kohnstamm presently resides at 2047 Selby Ave., St. Paul, MN 55104.

II. SUBSTANTIVE ALLEGATIONS

24. On or about September 7, 1988, H. Kohnstamm & Company, Inc. transferred the property at 31st Street and Lemuel Avenue, Camden, New Jersey (hereinafter "the Camden Property") to its wholly owned subsidiary, General Color Company, a New Jersey corporation and a defendant in this action.

25. After the transfer of the Camden Property, H. Kohnstamm & Company, Inc. transferred the stock of General Color Company, tax free, to the Kohnstamm family members who were shareholders of H. Kohnstamm & Company, Inc., the Kohnstamm Family Shareholders (i.e., the Third-Party Defendants). This had the effect of dissolving the parent-

subsidiary relationship that had previously existed between H. Kohnstamm & Company, Inc. and General Color Company.

26. The stock of H. Kohnstamm & Company, Inc. was then acquired by Universal Foods Corporation, a Wisconsin corporation, in 1988 (hereinafter, the transfer of the Camden Property to General Color Company, the transfer of the stock of General Color Company to the Kohnstamm Family Shareholders and the sale of the stock of H. Kohnstamm & Company to Universal Foods Corporation shall be referred to as the "1988 Transaction"). The effect of this 1988 Transaction was to make H. Kohnstamm & Company, Inc. a wholly-owned subsidiary of Universal Foods Corporation.

27. Universal Foods Corporation did not acquire any interest in General Color Company, which was no longer a subsidiary of H. Kohnstamm & Company, Inc. at the time Universal Foods Corporation acquired H. Kohnstamm & Company, Inc., nor did Universal Foods Corporation acquire any liability or interest associated with the operations of H. Kohnstamm & Company, Inc. or General Color Company on the Camden Property.

28. H. Kohnstamm & Company, Inc., a New York corporation, changed its name to Warner-Jenkinson Company, Inc. on or about September 18, 1990. Warner-Jenkinson Company, Inc. changed its name to Sensient Colors Inc. on or about December 31, 2002.

29. Section 5.3 of the agreement controlling the 1988 Transaction (hereinafter "1988 Transaction Agreement") provided that the "Selling Shareholders" and H. Kohnstamm & Company, Inc. would obtain a determination from the New Jersey Department of Environmental

Protection ("NJDEP") that the Environmental Cleanup Responsibility Act ("ECRA") did not apply to the 1988 Transaction. The 1988 Transaction Agreement further provided that the Selling Shareholders would cause H. Kohnstamm & Company, Inc. to comply with this obligation. A copy of the 1988 Transaction Agreement is attached as Exhibit B.

30. Each of the Third-Party Defendants was a Selling Shareholder and a Kohnstamm Family Shareholder under the 1988 Transaction Agreement.

31. Each of the Third-Party Defendants executed a shareholder agreement that outlined the transfer of the Camden Property to General Color Company and the distribution of General Color Company shares to the Third-Party Defendants. A copy of the shareholder agreement is attached as Exhibit C.

32. Pursuant to Section 5.3 of the 1988 Transaction Agreement, H. Kohnstamm & Company, Inc. and the Selling Shareholders (including the Third-Party Defendants) applied to the NJDEP for an ECRA letter of non-applicability for: (1) the transfer of the Camden Property by H. Kohnstamm & Company, Inc. to General Color Company; and (2) the transfer of the stock of General Color Company to the Kohnstamm Family Shareholders (i.e., Third-Party Defendants).

33. That application asked the NJDEP to disregard the corporate form and treat the formal change of ownership of the Camden Property from H. Kohnstamm & Company, Inc. to General Color Company as a corporate reorganization not substantially affecting the ownership of the Camden Property. The application also asked the NJDEP to disregard the

corporate form and treat the formal change of ownership of General Color Company from H. Kohnstamm & Company, Inc. to the Kohnstamm Family Shareholders as a corporate reorganization not substantially affecting the ownership of the Camden Property.

34. In support of those requests, H. Kohnstamm & Company, Inc. and the Selling Shareholders (including the Third-Party Defendants) represented in the application that the beneficial and equitable ownership of the Camden Property would remain with the Kohnstamm Family Shareholders (i.e., the Third-Party Defendants) because: (1) H. Kohnstamm & Company, Inc. was the parent of General Color Company; (2) the Kohnstamm Family Shareholders (i.e., the Third-Party Defendants) owned approximately 81% of the H. Kohnstamm & Company, Inc. stock; (3) after the stock distribution, they would own 100% of General Color Company; and (4) both before and after the proposed transaction the Kohnstamm Family Shareholders (i.e., the Third-Party Defendants) would own the controlling interest in Camden Property and would control General Color Company.

35. On the basis of the representations made by and on behalf of H. Kohnstamm & Company, Inc. and the Selling Shareholders (including the Third-Party Defendants), NJDEP issued ECRA letters of non-applicability regarding the transactions proposed by the 1988 Transaction Agreement. Copies of the letters of non-applicability and the applications upon which they were issued are attached as Exhibit D.

36. But for the representations made by and on behalf of H. Kohnstamm & Company, Inc. and the Selling Shareholders (including the Third-Party Defendants) in their ECRA application for letters of non-applicability, NJDEP would have required in 1988 an ECRA

environmental investigation and remediation of the Camden Property. The cost of that environmental investigation and remediation would have directly or indirectly reduced the compensation paid to the Selling Shareholders (including the Third-Party Defendants) in exchange for their H. Kohnstamm & Company, Inc. stock.

37. The above-referenced representations and actions of Third-Party Defendants evidence a level of control over H. Kohnstamm & Company, Inc. and General Color Company such that these corporations were mere instrumentalities, or alter egos, of the Kohnstamm Family Shareholders, Third-Party Defendants.

38. The Third-Party Defendants abused the corporate form to further their personal interests.

39. The Third-Party Defendants used General Color Company and H. Kohnstamm & Company, Inc. to defeat the ends of justice, as justice would have required H. Kohnstamm & Company, Inc. to either investigate and remediate the Camden Property prior to its transfer to General Color Company or enter into an agreement by which General Color Company and/or the Selling Shareholders (including the Third-Party Defendants) would assume the obligation to investigate and remediate the Camden Property after the transfer.

40. Accordingly, it is appropriate to pierce the corporate veil and impose liability on the individual Kohnstamm Family Shareholders, Third-Party Defendants.

41. Third-Party Defendants should be held responsible individually for the actions and environmental liabilities of H. Kohnstamm & Company, Inc. prior to the transfer of the Camden Property in 1988.

42. Third-Party Defendants should be held responsible individually for the actions and environmental liabilities of General Color Company after the transfer of the Camden Property in 1988.

43. Upon information and belief, if not for sworn statements submitted to the NJDEP, H. Kohnstamm & Company, Inc. would have been required to either investigate and remediate the Camden Property prior to its transfer to General Color Company or enter into an agreement by which General Color Company and/or the Selling Shareholders (including the Third-Party Defendants) would assume the obligation to investigate and remediate the Camden Property after the transfer. Either way, the Camden Property would have been investigated and remediated beginning in 1988.

COUNT I
CONTRIBUTION UNDER THE SPILL ACT

44. Sensient Colors, Inc. incorporates each of the allegations in Paragraphs 1 through 43 as if fully set forth herein.

45. Under the New Jersey Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq. (the "Spill Act"), any person responsible for a discharge of hazardous substances is strictly liable, jointly and severally, without regard to fault, for all cleanup and removal costs no matter by whom incurred.

46. The term "person responsible for a discharge" is defined at N.J.A.C. 7:1E-1.6 to include: (a) any person whose act or omission results or has resulted in a discharge; (b) each owner or operator of a facility from which a discharge has occurred; (c) any person who owns or controls any hazardous substance which is discharged; (d) any person who has directly or indirectly caused a discharge; and (e) any person who has allowed a discharge to occur.

47. The ECRA application submitted to the NJDEP by or on behalf of each of the Third-Party Defendants admitted that they, the Kohnstamm Family Shareholders, were the beneficial and equitable owners of the Camden Property. Accordingly, they are persons responsible for a discharge.

48. The ECRA application submitted to the NJDEP by or on behalf of each of the Third-Party Defendants admitted that they, the Kohnstamm Family Shareholders, controlled H. Kohnstamm & Company and, therefore, the Camden Property. Accordingly, they are persons responsible for a discharge.

49. To the extent that it is determined that Sensient Colors Inc. is required to pay for cleanup and removal costs at the property known as Lot 1, Block 983 and Lots 1 and 20 of Block 985 on the Municipal Tax Map of the City of Camden, Camden County, New Jersey (hereinafter "Plaintiff's Property"), Third-Party Defendants are liable in contribution to Sensient Colors Inc. pursuant to the Spill Act.

WHEREFORE, Sensient Colors, Inc. demands judgment against Third-Party Defendants for contribution under the Spill Act, all costs of suit, attorney's fees and any such other relief as this Court deems just and equitable.

COUNT II
CONTRIBUTION UNDER THE SPILL ACT-VEIL PIERCING

50. Sensient Colors Inc. incorporates each of the allegations in Paragraphs 1 through 49 as if fully set forth herein.

51. The Spill Act provides that a person who has discharged a hazardous substance or is in any way responsible for any hazardous substance shall be strictly liable, jointly and severally, without regard to fault, for all cleanup and removal costs no matter by whom incurred.

52. Plaintiff has alleged that Sensient Colors Inc. discharged hazardous substances, as defined in the Spill Act, on or in the vicinity of the Camden Property, and the Plaintiff's Property.

53. Plaintiff has alleged that, as a result of such discharges, Sensient Colors Inc. is liable under the Spill Act for the environmental contamination at Plaintiff's Property.

54. Since the Third-Party Defendants avoided the costs associated with an environmental investigation and remediation of contamination at and emanating from the Camden Property by representing to the NJDEP that there was no relevant distinction between themselves, as Kohnstamm Family Shareholders, and H. Kohnstamm & Company, Inc. (now

known as Sensient Colors Inc.) or General Color Company, the liability of the Third-Party Defendants under the Spill Act is co-extensive with the liability of Sensient Colors Inc. and General Color Company.

55. To the extent that it is determined that Sensient Colors Inc. is required to pay for cleanup and removal costs at Plaintiff's Property, Third-Party Defendants are liable in contribution to Sensient Colors Inc. pursuant to the Spill Act, including, but not limited to, that share of liability attributable to General Color Company.

WHEREFORE, Sensient Colors, Inc. demands judgment against Third-Party Defendants for contribution under the Spill Act, all costs of suit, attorney's fees and any such other relief as this Court deems just and equitable.

COUNT III
CONTRIBUTION UNDER THE JOINT TORTFEASORS CONTRIBUTION ACT

56. Sensient Colors Inc. incorporates each of the allegations in Paragraphs 1 through 55 as if fully set forth herein.

57. Pursuant to the New Jersey Joint Tortfeasors Contribution Act, N.J.S.A. 2A:53A-1, et seq., a joint tortfeasor has a right of contribution from any other joint tortfeasor.

58. In the event that Sensient Colors Inc. is adjudged to be liable with the other Defendants, jointly and severally, for any judgment, damages, costs or any other expenses relating to Plaintiff's Property, Sensient Colors Inc. is entitled to and hereby seeks contribution from the Third-Party Defendants for all such judgments, damages, costs and expenses.

WHEREFORE, Sensient Colors Inc. demands judgment against Third-Party Defendants for contribution under the Joint Tortfeasors Contribution Act, all costs of suit, attorney's fees and any such other relief as this Court deems just and equitable.

COUNT IV
COMMON LAW INDEMNIFICATION

59. Sensient Colors Inc. incorporates each of the allegations in Paragraphs 1 through 58 as if fully set forth herein.

60. To the extent that environmental contamination of Plaintiff's Property was caused or contributed to by operations at the Camden Property, such operations occurred prior to the 1988 acquisition of H. Kohnstamm & Company, Inc. (now known as Sensient Colors Inc.) by Universal Foods Corporation. Prior to 1988, H. Kohnstamm & Company, Inc. was controlled by the Third-Party Defendants and they were the beneficial and equitable owners of the Camden Property. As between Sensient Colors Inc. and Third-Party Defendants, responsibility, if any, for the relief sought in the Complaint rests on Third-Party Defendants because of their primary responsibility for the environmental condition of the Camden Property and any contamination of Plaintiff's Property related thereto. Accordingly, Third-Party Defendants are obligated to indemnify Sensient Colors Inc. whose responsibility, if any, is passive and secondary, for any and all sums which Defendants have paid or may be compelled to pay, including attorney's fees, if Sensient Colors Inc. is held liable for any relief sought in the Complaint.

WHEREFORE, Sensient Colors Inc. demands judgment against Third-Party Defendants for indemnification, all costs of suit, attorney's fees and any such other relief as this Court deems just and equitable.

COUNT V
UNJUST ENRICHMENT

61. Sensient Colors Inc. incorporates each of the allegations in Paragraphs 1 through 60 as if fully set forth herein.

62. Third-Party Defendants have been enriched by their acts and omissions which allowed them to avoid the costs of investigating and remediating the environmental condition of the Camden Property and any contamination caused or contributed to by the operations of H. Kohnstamm & Company, Inc.

63. These acts and omissions allowed Third-Party Defendants to save substantial sums they should have expended in order to investigate and remediate pursuant to ECRA environmental contamination arising from the operation of the business they owned and controlled.

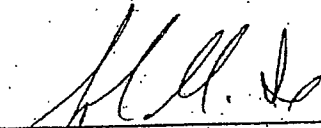
64. These acts and omissions also allowed Third-Party Defendants to receive substantially more from Universal Foods Corporation in exchange for their shares of H. Kohnstamm & Company, Inc. than they would have received if the conditions at and emanating from the Camden Property had been properly investigated and remediated prior to the property transfer.

WHEREFORE, Sensient Colors Inc. demands judgment against Third-Party Defendants for disgorgement of Third-Party Defendants' profits from the sale of their H. Kohnstamm & Company, Inc. shares to Universal Foods Corporation (which were monies improperly retained/obtained as aforesaid), all costs of suit, attorney's fees and any such other relief as this Court deems just and equitable.

CERTIFICATION PURSUANT TO R. 4:5-1

I hereby certify, in accordance with R. 4:5-1, that there are no other proceedings either pending or contemplated with respect to the matter in controversy in this action and that, based on the information currently available to me, I know the identities of no other parties who should be joined in this action.

Respectfully submitted,



Michael A. Bogdonoff
John M. Ix

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Princeton, NJ 08543-5218

Attorneys for Defendants;
H. Kohnstamm & Company, Inc., Warner-
Jenkinson Company, Inc., and Sensient Colors Inc.

Dated: July 18, 2005

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:5-1, Sensient Colors Inc. designates Michael A. Bogdonoff as trial counsel in the within matter.

Respectfully submitted,



Michael A. Bogdonoff
John M. Ix

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Princeton, NJ 08543-5218

Attorneys for Defendants,
H. Kohnstamm & Company, Inc., Warner-
Jenkinson Company, Inc., and Sensient Colors Inc.

Dated: July 18, 2005

CERTIFICATION OF SERVICE

Pursuant to R. 4:6-1, I certify that a copy of the within Third Party Complaint was served upon counsel for the Plaintiff within the time and in the manner required by the Rules of Court, via first class mail to the following address:

Joseph P. McGroarty, Esq.
Fitzgerald, McGroarty & Lipari
401 New Road, Suite 104
Linwood, NJ 08221

DECHERT LLP
Attorneys for Defendants H. Kohnstamm &
Company, Inc., Warner-Jenkinson Company, Inc.
and Sensient Colors Inc.

By: _____

John M. Ix

Dated: July 18, 2005